

# Exhibit D

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION

DYLAN BRANDT, et al.,

**Plaintiffs,**

v.

No. 4:21CV00450 JM

November 28, 2022  
Little Rock, Arkansas  
8:57 AM

LESLIE RUTLEDGE, et al.,

## Defendants.

TRANSCRIPT OF BENCH TRIAL - VOLUME 5  
BEFORE THE HONORABLE JAMES M. MOODY, JR.,  
UNITED STATES DISTRICT JUDGE

## APPEARANCES:

On Behalf of the Plaintiffs:

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Appearances continuing...

1  
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24 *Proceedings reported by machine stenography. Transcript  
prepared utilizing computer-aided transcription.*  
25Karen Dellinger, RDR, CRR, CCR  
United States Court Reporter

1  
2                   **INDEX - VOLUME 5 (11/28/22)**  
34                   **WITNESSES FOR THE DEFENDANTS: Direct    Cross    Redirect    Recross**  
56                   STEPHEN LEVINE                   781           885           955           959  
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Karen Dellinger, RDR, CRR, CCR  
United States Court Reporter

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1 (Proceedings continuing in open court at 8:57 AM.)

2 THE COURT: Are y'all ready?

3 MR. JACOBS: Your Honor, Defendants are ready to  
4 call, I guess, our next witness, not our first witness. One  
5 thing I wanted to check in on. So Dr. Regnerus is prepared to  
6 testify remotely tomorrow, and I wanted to ask at what time the  
7 Court could begin tomorrow with the hope that it could begin I  
8 guess as early as we can make it happen. Because Dr. Regnerus  
9 is testifying late in the evening from where he's located, so  
10 just to avoid him having to run into testifying in the wee  
11 hours of the early morning, if we could start as early as we  
12 can. I recognize that --

13 THE COURT: I expect this will likely make everybody  
14 cringe, but courthouse opens at 7:30.

15 MR. JACOBS: Could we -- I think he'd be available  
16 to start at like 8:00.

17 THE COURT: That's fine. That would give everybody  
18 time to get in the building and get settled and we could make  
19 sure stuff is up.

20 MR. JACOBS: Okay. That's all the preliminary  
21 matters that we have.

22 THE COURT: So with an asterisk, you've got my  
23 entire week. What are your thoughts on how long you're going  
24 to take?

25 MR. JACOBS: Our witnesses will be done Thursday and

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1 we'll rest on Thursday.

2 THE COURT: I've got two sentencings, one at 1:00  
3 and one at 2:00 on Wednesday. Those usually last 30 minutes,  
4 so we're probably going to work a little later into lunch on  
5 Wednesday.

6 MR. JACOBS: That won't be a problem, Your Honor.

7 THE COURT: And then it looks like I've got a lunch  
8 hearing on the 1st. Okay. That's what is on my schedule other  
9 than you guys. So are we ready to jump back in?

10 MR. JACOBS: We're ready, Your Honor. Defendants  
11 will call Dr. Stephen Levine.

12 THE COURT: Sir, if you could come on the far side  
13 of that silver rail. Good morning.

14 **STEPHEN LEVINE, DEFENDANTS' WITNESS, DULY SWORN**  
15 **DIRECT EXAMINATION**

16 BY MR. CANTRELL:

17 Q Good morning, Dr. Levine.

18 A Good morning.

19 Q Can you state your name and spell it for the record.

20 A Stephen, S-t-e-p-h-e-n, Barrett, B-a-r-r-e-t-t, Levine,  
21 L-e-v-i-n-e.

22 Q Thank you. Dr. Levine, can you tell us what academic and  
23 clinical positions that you currently hold?

24 A I am clinical professor of psychiatry at Case Western  
25 Reserve University. I'm a staff psychiatrist in a group

1 Q. And switching back to adults, you've written letters  
2 of authorization for adults seeking gender-affirming  
3 surgeries. Is that correct?

4 A. I have.

5 Q. And you've done that as recently as the past two  
6 years.

7 A. I have.

8 Q. And you've also written letters authorizing hormone  
9 therapy for adult patients with gender dysphoria.

10 A. I have.

11 Q. And these are letters they can take to the  
12 endocrinologist. Is that right?

13 A. Yes.

14 Q. And you have written such letters approving hormone  
15 therapy for minors under 18 in a few cases within the past  
16 five years, haven't you?

17 A. I don't think in the past five years.

18 Q. Okay. Can we turn to Dr. Levine's deposition, page  
19 78?

20 I would like you to read along with me starting on  
21 line 3. So between you and Mrs. Novak, there have been a  
22 handful of cases in the past, say, five years where you  
23 have approved hormone therapy for minor. Is that right?

24 These are particularly fraught difficult  
25 circumstances, yes.

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1 A. Yes.

2 Q. Mrs. Novak is someone who works in your medical  
3 practice -- or your psychiatry practice?

4 A. She's a younger colleague of mine.

5 Q. That was your testimony.

6 A. I'm sorry?

7 Q. That was your testimony that I read correctly.

8 A. Yes. I'm just not sure today whether it's five years  
9 or six years now. And in generally, there have been a few  
10 very fraught cases where we felt that this is a very  
11 reasonable thing given the severity, the complexity of the  
12 case, and that we would -- we, along with parents, would  
13 hold our breath that this would be of help.

14 Q. And you have cosigned letters for hormone therapy for  
15 minors written by Mrs. Novak, again, approving some minors  
16 for hormone therapy. Is that right?

17 A. Yes, but this has not occurred very recently, Ms.  
18 Cooper.

19 Q. You would not write a letter supporting hormone  
20 therapy for a minor if you did not believe the patient had  
21 gender dysphoria, correct?

22 A. Correct.

23 Q. And you would not write a letter approving a minor  
24 for hormone therapy without first determining that they  
25 had a longstanding, stable gender identity. Is that

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1 much more cautious. We will give adolescents hormones,  
2 but not as quickly as the Standards of Care would like.

3 That was your testimony in Keohane.

4 A. I have to say yes.

5 Q. And just to clarify, the Standards of Care you're  
6 referring to in the 7th Edition, is that the WPATH's  
7 Standards of Care 7th Edition?

8 A. Yes.

9 Q. When you were deposed in May of this year in this  
10 case, the Brandt case, you testified, did you not, that  
11 going forward you have not made a decision to no longer  
12 write letters approving hormone therapy for patients under  
13 18 years of age.

14 A. Indulge me a minute. In the previous thing you put  
15 up, my deposition of adolescents was not the definition I  
16 gave to the Judge earlier this morning. It was my  
17 definition of an adolescent is somebody 19 years of age.  
18 And so if you reread that, it would include 18-year-olds  
19 and 19-year-olds.

20 So would you repeat the last question you asked me?

21 Q. Sure. When you were deposed this past May in this  
22 case in Arkansas, you testified that, going forward, you  
23 have not made a decision to categorically not write  
24 letters approving hormone therapy for patients under 18,  
25 correct?

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1 A. I don't remember saying that, but if you have that, I  
2 trust you.

3 Q. Yeah. I think we want to put that in the record.

4 Can we look at deposition page 227?

5 And if you go to line 3, part way through beginning  
6 with the words, "Have you made a decision." Are you with  
7 me? It's highlight.

8 Have you made a decision to no longer consider  
9 hormone therapy for anybody who has not reached their 18th  
10 birthday since you provided those letters?

11 Answer: I've made a decision to be very cautious and  
12 to put a period of time in therapy between me and the  
13 letter.

14 You go on to say more, which you're welcome to read  
15 if you would like, but I want to continue on to another  
16 passage that picks up rather than taking the Court's time  
17 reading a lot of discussion in between.

18 If we could turn to page 228, line 3. Let me know if  
19 you want to review there.

20 MR. CANTRELL: Your Honor, I would like to just,  
21 if we could, take a look at the intervening testimony,  
22 glance at that.

23 MS. COOPER: Sure. We can post that.

24 Absolutely.

25 THE COURT: I thought you were in the

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1 deposition, Mr. Cantrell, but go ahead.

2 BY MS. COOPER:

3 Q. Do you have that in front of you now, Doctor? If you  
4 look at line 3 and read along with me.

5 So I'm not sure if that answers my question. Have  
6 you made a decision to no longer provide letters?

7 Answer: Oh, I'm sorry. No, I haven't made that  
8 decision.

9 Question: So would it be a case-by-case basis if  
10 there were a patient that you felt it was appropriate for  
11 you -- appropriate for, you would consider doing it, say,  
12 a 17-year-old or a 16-year-old?

13 Mr. Cantrell: Object to form.

14 Answer: I don't have a -- yes. The answer to your  
15 question is yes.

16 I'm not going to ask you if that was your testimony  
17 again --

18 A. Thank you.

19 Q. -- since I see how you love those questions.

20 Now, today you testified that you would not recommend  
21 hormone therapy for patients under 18. Do you mean you  
22 would not generally recommend hormone therapy as a general  
23 matter?

24 A. Yes.

25 Q. So there may be exceptional cases where you would

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1 still consider it appropriate.

2 A. Yes. These are very fraught circumstances. I think  
3 all of us all over the world recognize that we are under  
4 very difficult circumstances sometimes. We don't know  
5 what to do and we eventually go along with the patient's  
6 sincere desire to try hormones.

7 Q. Now, you talked on direct about an article you wrote  
8 called, *Reconsidering Informed Consent for  
9 Trans-identified Children, Adolescents, and Young Adults*.

10 And I just want to ask you a couple of questions  
11 about that article.

12 In this article, you recommend informed content  
13 process that you think providers should undertake before  
14 authorizing medical or surgical transition for minors,  
15 correct?

16 A. Yes.

17 Q. I'd like to pull up a passage from that article to  
18 show you. If we can look at page 2. And I have some  
19 material highlighted. Actually, I would like you to skip  
20 to -- sorry. I wasn't in front of the mic. I would like  
21 to skip to the second highlighted paragraph.

22 A. I know what you're talking about.

23 Q. We over highlighted. If you'll read along with me in  
24 the second paragraph there.

25 Social transition, hormonal interventions, and

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1 MS. TEMPLIN: Apologies.

2 MR. JACOBS: That's what we would suggest. Dr.  
3 Lappert is willing to change around his travel to make that  
4 work. I think we went a little bit longer with Dr. Levine than  
5 we anticipated. We hoped to be able to do both today. So long  
6 as the Court has tomorrow afternoon available, so long as  
7 there's not any objections on that end, I think we could switch  
8 those and get everything done.

9 THE COURT: The only thing I have in my week that's in  
10 y'all's way is the one o'clock 30 minute and the two o'clock 30  
11 minute on Wednesday, then the noon hour on Thursday.

12 MR. JACOBS: Neither of those will be problems on our  
13 end, Your Honor. If that's acceptable to everybody, I think we  
14 will proceed with Dr. Regnerus tomorrow when we get everything  
15 set and then proceed with Dr. Lappert.

16 THE COURT: If we get both of them done tomorrow, how  
17 late do you anticipate going on Thursday?

18 MR. JACOBS: On Thursday, Your Honor, it could be a  
19 full day on Thursday. I just don't know whether it's going to  
20 be sort of an early day out on Thursday or not at this point.

21 THE COURT: I'm just curious.

22 MR. JACOBS: Regardless of this, we'll still be  
23 totally done on Thursday with our witnesses. That won't impact  
24 this at all.

25 THE COURT: All right. Court is in recess until

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1       eight o'clock tomorrow.

2                    MR. JACOBS: Yes, Your Honor.

3                    (Overnight recess at 4:19 p.m.)

4                    REPORTER'S CERTIFICATE

5        I certify that the foregoing is a correct transcript from  
6        the record of proceedings in the above-entitled matter.

7        /s/Elaine Hinson, RMR, CRR, CCR       Date: December 4, 2022.  
8        United States Court Reporter

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